

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

SHERYL WULTZ, et al.,

Plaintiffs,

v.

ISLAMIC REPUBLIC OF IRAN, et al.,

Defendants.

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1:08-cv-1460-RCL

**ORDER DENYING THE MOTION OF DEFENDANT
BANK OF CHINA LIMITED TO DISMISS THE COMPLAINT**

The plaintiffs commenced this action on August 22, 2008 by filing their Complaint [1] against several defendants, including Bank of China, Ltd. (“BOC”). Soon thereafter, BOC filed a motion to dismiss that complaint, styled Motion [3] of Defendant Bank of China Limited to Dismiss the Complaint, upon which the Court now rules. The plaintiffs have since filed their First Amended Complaint [12], which BOC has also moved to dismiss in Defendant Bank of China Limited’s Motion [15] to Dismiss the First Amended Complaint.

By filing an amended complaint, the plaintiffs rendered their original complaint a nullity. *See* 6 CHARLES ALLEN WRIGHT, ARTHUR R. MILLER & MARY KAY KANE, FEDERAL PRACTICE AND PROCEDURE § 1476 (2d ed. 1990) (“Once an amended pleading is interposed, the original pleading no longer performs any function in the case . . .”). A motion to dismiss a complaint that has been subsequently amended is therefore moot. *See, e.g., Myvett v. Williams*, 638 F. Supp. 2d 59, 62 n.1 (D.D.C. 2009) (“Because the plaintiff filed an amended complaint after the defendants moved to dismiss the original complaint, the court denies as moot the defendants’ motion to dismiss the original complaint.”); *P&V Enterprises v. U.S. Army Corps of Engineers*,

466 F. Supp. 2d 134, 135 n.1 (D.D.C. 2006) (citing *Bancoult v. McNamara*, 214 F.R.D. 5, 13 (D.D.C. 2003) (“[T]he filing of the plaintiffs’ amended complaint mooted the defendants’ motion to dismiss the original complaint)). BOC’s motion to dismiss must therefore be denied as moot.

Upon consideration of the Motion of Defendant Bank of China Limited to Dismiss the Complaint and procedural developments in this case, it is hereby

ORDERED that the Motion is DENIED.

/s/

Royce C. Lamberth
Chief Judge
United States District Court
for the District of Columbia

December 14, 2009